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\* This Decree reflects only the amendments made until December 30, 2016.

# ENFORCEMENT DECREE OF THE EMPLOYEE RETIREMENT BENEFIT SECURITY ACT

Presidential Decree No. 19010, Aug. 19, 2005

Amended by Presidential Decree No. 19513, Jun. 12, 2006  
Presidential Decree No. 20681, Feb. 29, 2008  
Presidential Decree No. 20947, Jul. 29, 2008  
Presidential Decree No. 22269, Jul. 12, 2010  
Presidential Decree No. 22409, Sep. 29, 2010  
Presidential Decree No. 22493, Nov. 15, 2010  
Presidential Decree No. 22808, Mar. 30, 2011  
Presidential Decree No. 23417, Dec. 28, 2011  
Wholly Amended by Presidential Decree No. 23987, Jul. 24, 2012  
Presidential Decree No. 25022, Dec. 24, 2013  
Presidential Decree No. 25840, Dec. 9, 2014  
Presidential Decree No. 26152, Mar. 23, 2015  
Presidential Decree No. 26719, Dec. 15, 2015  
Presidential Decree No. 27751, Dec. 30, 2016

## **Article 1 (Purpose)**

The purpose of this Decree is to prescribe matters delegated by the Employee Retirement Benefit Security Act and those necessary for the enforcement thereof.

## **Article 2 (Reasons, etc., for Offering Right to Receive Benefits under Retirement Pension Plan as Collateral)**

(1) "Where the reasons and requirements prescribed by Presidential Decree, such as housing purchase, are met" in the former part of Article 7 (2) of the Employee Retirement Benefit Security Act (hereinafter referred to as "the Act") means any of the following cases: <Amended by Presidential Decree No. 26719, Dec. 15, 2015>

1. Where a pension holder who is a non-homeowner purchases a house in his/her own name;
- 1-2. Where a pension holder who is a non-homeowner pays a tenancy deposit under Article 303 of the Civil Act or a security deposit under Article 3-2 of the Housing Lease Protection Act for residential purposes. In such cases, the number of such occurrences shall be limited to one time while the worker works in the same business or workplace (hereinafter referred to as "business");
2. Where a pension holder pays the medical care costs incurred by the illness or injury of any of the following

persons that needs six months or more of medical care:

- A. The pension holder him/herself;
  - B. The pension holder's spouse;
  - C. Any dependent family member of the pension holder or his/her spouse (referring to a dependent family member under Article 50 (1) 3 of the Income Tax Act; hereinafter the same shall apply.)
3. Where a pension holder has been declared bankrupt pursuant to the Debtor Rehabilitation and Bankruptcy Act within five years counting backward from the date of offering collateral;
  4. Where a pension holder has received a decision for commencement of rehabilitation procedures pursuant to the Debtor Rehabilitation and Bankruptcy Act within five years counting backward from the date of offering collateral;
- 4-2. Where a pension holder pays the college tuition fees, wedding expenses or funeral expenses of any of the following persons:
- A. The pension holder him/herself;
  - B. The pension holder's spouse;
  - C. Any dependent family member of the pension holder or his/her spouse.
5. Other cases falling under the reasons and requirements determined and announced by the Minister of Employment and Labor, such as when damage is inflicted by a natural disaster, etc.

(2) "To the extent prescribed by Presidential Decree" in the former part of Article 7 (2) of the Act means the extent determined according to the following classification: *<Amended by Presidential Decree No. 26719, Dec. 15, 2015>*

1. In the case of paragraph (1) 1, 1-2, 2 through 4 and 4-2: 50/100 of reserves for each pension holder;
2. In the case of paragraph (1) 5: the extent determined and announced by the Minister of Employment and Labor in consideration of the degree of damage done by a natural disaster, etc., to the pension holder, and so on.

### **Article 3 (Reasons for Interim Settlement of Retirement Pay)**

(1) "Reason prescribed by Presidential Decree, such as housing purchase," in the former part of Article 8 (2) of the Act means any of the following cases: *<Amended by Presidential Decree No. 25022, Dec. 24, 2013 and Presidential Decree No. 26719, Dec. 15, 2015>*

1. Where a worker who is a non-homeowner purchases a house in his/her own name;
  2. Where a worker who is a non-homeowner pays a tenancy deposit under Article 303 of the Civil Act or a security deposit under Article 3-2 of the Housing Lease Protection Act for residential purposes. In such cases, the number of such occurrences shall be limited to one time while the worker works in the same business;
  3. Where a worker pays the medical care costs incurred by the illness or injury of any of the following persons that needs six months or more of medical care:
    - A. The worker him/herself;
    - B. The worker's spouse;
    - C. Any dependent family member of the worker or his/her spouse.
  4. Where a worker has been declared bankrupt pursuant to the Debtor Rehabilitation and Bankruptcy Act within five years counting backward from the date of request for the interim settlement of retirement pay;
  5. Where a worker has received a decision for commencement of rehabilitation procedures pursuant to the Debtor Rehabilitation and Bankruptcy Act within five years counting backward from the date of request for the interim settlement of retirement pay;
  6. Where an employer implements a system of reducing wages based on a particular age, length of consecutive service or amount of wage through a collective agreement or employment rules, etc., on the condition of extending or guaranteeing the existing retirement age;
  - 6-2. Where an employer has changed a worker's contractual working hours by at least one hour a day or five hours a week under agreement with the worker and the worker has agreed to continue to work according to the changed contractual working hours for three months or more.
  7. Other cases falling under the reasons and requirements determined and announced by the Minister of Employment and Labor, such as when damage is inflicted by a natural disaster, etc.
- (2) If an employer has settled and paid retirement pay early due to the reason specified in each subparagraph of paragraph (1), he/she shall preserve relevant documents proving this until the day marking five years after the worker retires.

#### **Article 4 (Matters to be Stipulated in Defined Benefit Retirement**

### **Pension Rules)**

(1) "Matters prescribed by Presidential Decree" in subparagraph 11 of Article 13 of the Act means the following matters:

1. Matters concerning calculation and payment of contributions;
2. Matters concerning payment of fees for carrying out operational management services under Article 28 of the Act (hereinafter referred to as "operational management services") and asset management services under Article 29 of the Act (hereinafter referred to as "asset management services");
3. Matters concerning the methods of and procedures for educating pension holders, etc.;
4. Matters concerning handling of affairs related to contracts for operational management services made with multiple retirement pension trustees. In such cases, if a pension holder fails to designate an individual retirement pension plan account, matters concerning the designation of a retirement pension trustee to whom the benefits shall be transferred pursuant to Article 17 (5) of the Act shall be included.

(2) A retirement pension trustee who calculates contributions under paragraph (1) 1 shall consider the estimated amount of expenses for future benefits, the estimated amount of revenues, etc., to maintain financial stability in the long term, and the detailed standards shall be prescribed by Ordinance of the Ministry of Employment and Labor.

(3) An employer shall pay contributions regularly at least once every year.

(4) The fees under paragraph (1) 2 shall be borne by the employer.

(5) Detailed matters concerning the methods of and procedures for educating pension holders, etc., under paragraph (1) 3 shall be prescribed by Ordinance of the Ministry of Employment and Labor.

(6) An employer who enters into a contract for operational management services with multiple retirement pension trustees shall select one of the retirement pension trustees as the representative retirement pension trustee (hereinafter referred to as "secretariat") and have it carry out the services specified in each item of Article 22 (1) 3.

**Article 5 (Minimum Level of Reserves Under Defined Benefit Retirement Pension Plans)**

(1) "The ratio prescribed by Presidential Decree" in the main sentence of Article 16 (1) of the Act other than each subparagraph means the ratio of reserves to the standard liability reserves under Article 16 (1) of the Act (hereinafter referred to as "standard liability reserves") and shall be classified as follows:

1. From July 26, 2012 to December 31, 2013: 60/100;
2. From January 1, 2014 to December 31, 2015: 70/100;
3. From January 1, 2016 to December 31, 2017: 80/100;
4. January 1, 2018 and beyond: a ratio of not less than 80/100 prescribed by Ordinance of the Ministry of Employment and Labor.

(2) If the period of providing service to the relevant business before the establishment of the retirement pension plan concerned (hereinafter referred to as "past service period" in this paragraph) is included in the period of contribution pursuant to Article 14 (2) of the Act, "the ratio prescribed by Presidential Decree" in the proviso to Article 16 (1) of the Act other than each subparagraph means the ratio of reserves to the standard liability reserves corresponding to the relevant service period, which is determined and announced by the Minister of Employment and Labor according to the number of years of past service and the number of years that have passed since the contribution began.

**Article 6 (Notification of Results of Financial Review)**

(1) After comparing the amount of reserves calculated pursuant to Article 16 (2) of the Act and the minimum reserves under Article 16 (1) of the Act (hereinafter referred to as "minimum reserves"), a retirement pension trustee shall notify the employer in writing of whether there is any shortfall in reserves, the current state of reserves and contributions paid, whether a financial stabilization plan has been drawn up under Article 7 (2) 1, and so on: Provided, That where the amount of reserves is less than the minimum reserves, the retirement pension trustee shall, if there is a trade union consisting of a majority of workers, notify the trade union thereof in writing, and if there is no such trade union, notify all workers thereof in writing or through an in-house bulletin board or information and communications network.

(2) Forms necessary for the notification under paragraph (1)

shall be determined and announced by the Minister of Employment and Labor.

**Article 7 (Criteria for Determining Shortfall in Reserves and Measures for Resolution)**

(1) "The level prescribed by Presidential Decree" in Article 16 (3) of the Act means 95/100 of the minimum reserves:

(2) Pursuant to Article 16 (3) of the Act, an employer shall, if the amount of reserves falls short of the level specified in paragraph (1), resolve the shortfall through the following measures:

1. The employer shall draw up a concrete plan (hereinafter referred to as a "financial stabilization plan") containing measures to make up the shortfall, a contribution plan, etc., to resolve the shortfall and thus to achieve balance within three years, and shall keep the plan for three years;
2. The employer shall, if there is a trade union consisting of a majority of workers, notify the trade union of the financial stabilization plan, and if there is no such trade union, notify all workers and the retirement pension trustee of the financial stabilization plan, within 60 days after the date when he/she is notified by the retirement pension trustee of the results of a financial review pursuant to Article 6;
3. The employer shall faithfully implement the financial stabilization plan, such as by paying contributions to make up the shortfall in reserves.

**Article 8 (Reasons for Exceptions to Payment of Full Benefits)**

(1) "The cases prescribed by Presidential Decree, such as business bankruptcy" in the main sentence of Article 17 (2) of the Act means the following cases: *<Amended by Presidential Decree No. 26719, Dec. 15, 2015>*

1. Where an employer has been declared bankrupt under the Debtor Rehabilitation and Bankruptcy Act;
2. Where an employer has received a decision for commencement of rehabilitation procedures under the Debtor Rehabilitation and Bankruptcy Act;
3. Where an employer falls under subparagraph 2 or 3 of Article 5 (1) of the Enforcement Decree of the Wage Claim Guarantee Act;
4. Where the ratio of reserves to standard liability reserves found as a result of the check under Article 16 (2) of the

- Act is lower than the ratio under Article 5 (1). In such cases, even when the period of providing service to the relevant business before the establishment of a retirement pension plan is included in the period of contribution, the ratio under Article 5 (1) shall apply;
5. Where the following value is higher than the ratio determined and announced by the Minister of Employment and Labor:

The total amount of retirement benefits paid to pension holders in the relevant business since the starting date of the business year

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The amount of reserves as of the starting date of the business year  
+ the total amount of contributions paid since the starting date of the business year

6. Other cases prescribed by Ordinance of the Ministry of Employment and Labor, where paying full benefits may restrict the right of other workers to receive benefits.

#### **Article 9 (Reasons for Exceptions to Transferring to Individual Retirement Pension Plan)**

"Any reason prescribed by Presidential Decree, such as when a pension holder retires after the age of 55 and receives benefits" in the proviso to Article 17 (4) of the Act means any of the following cases:

1. Where a pension holder retires after the age of 55 and then receives benefits;
2. Where a pension holder has to repay loans, etc., secured against benefits pursuant to Article 7 (2) of the Act. In such cases, the amount not transferred to the individual retirement pension plan account designated by the pension holder shall not exceed the amount of secured loans to be repaid;
3. Where the amount of retirement benefits is not more than the amount determined by the Minister of Employment and Labor.

#### **Article 10 (Matters to be Stipulated in Defined Contribution Retirement Pension Rules)**

(1) "Other matters prescribed by Presidential Decree" in Article 19 (1) 7 of the Act means the following matters:

1. Matters concerning the payment of fees for carrying out operational management services and asset management



services;

2. Matters concerning the methods of and procedures for educating pension holders, etc.

(2) The fees under paragraph (1) 1 shall be borne by the employer: Provided, That fees incurred due to additional contributions which may be paid by a pension holder him/herself shall be borne by the pension holder.

(3) Detailed matters concerning the methods of and procedures for educating pension holders, etc., under paragraph (1) 2 shall be prescribed by Ordinance of the Ministry of Employment and Labor.

**Article 11 (Rate of Interest on Unpaid Contributions)**

"An interest rate prescribed by Presidential Decree" in the latter part of Article 20 (3) of the Act means the interest rate determined according to the following classification:

1. From the day following the date set for payment of contributions until the 14th day (or an extended date in cases where the date of payment is extended under agreement between the parties concerned) after the date when a reason for paying benefits, such as retirement of the pension holder, occurs: an annual interest rate of 10/100.
2. From the day immediately following the end of the period under paragraph (1) until the day when contributions are paid: an annual interest rate of 20/100.

**Article 12 (Reasons for Exclusion from Application of Interest on Delayed Payment)**

"Any other reason prescribed by Presidential Decree" in Article 20 (4) of the Act means cases falling under any subparagraph of Article 18 of the Enforcement Decree of the Labor Standards Act.

**Article 13 (Reasons for Payment of Unpaid Contributions)**

"Any reason prescribed by Presidential Decree" in the main sentence of Article 20 (5) of the Act means cases where a pension holder retires from the relevant business.

**Article 14 (Reasons for Early Withdrawal from Defined Contribution Retirement Pension Plan)**

"Any reason prescribed by Presidential Decree, such as housing purchase" in Article 22 of the Act means any of the following cases: *<Amended by Presidential Decree No. 26719, Dec. 15, 2015>*

1. Cases falling under Article 2 (1) 1, 1-2, 2 or 5;
2. Where a pension holder has been declared bankrupt pursuant to the Debtor Rehabilitation and Bankruptcy Act within five years counting backward from the date of request for early withdrawal;
3. Where a pension holder has received a decision for commencement of rehabilitation procedures pursuant to the Debtor Rehabilitation and Bankruptcy Act within five years counting backward from the date of request for early withdrawal.

**Article 15 (Matters to be Stipulated in Standard Rules)**

"Other matters prescribed by Presidential Decree" in subparagraph 1 B of Article 23 of the Act means the following matters:

1. The characteristics of the defined contribution retirement pension plan set up under the standard rules and a name reflecting such characteristics;
2. Matters concerning the scope or characteristics of businesses eligible to join;
3. The methods of management of reserves and criteria for selection thereof. In such cases, management methods and criteria for their selection which are applicable if a pension holder does not give any management instruction shall be included;
4. Matters concerning the grounds and procedures, etc., for withdrawal;
5. Matters concerning fees;
6. Other matters necessary for the reasonable operation of a defined contribution retirement pension plan involving two or more employers and determined by the Minister of Employment and Labor.

**Article 16 (Matters to be Stipulated in Standard Contracts)**

"Matters prescribed by Presidential Decree" in subparagraph 2 of Article 23 of the Act means the following matters:

1. Matters concerning the implementation of standard rules under subparagraph 1 of Article 23 of the Act;
2. Matters concerning calculation and payment of costs related to operation of a defined contribution retirement pension plan involving two or more employers;
3. Matters concerning the grounds and procedures, etc., for terminating or changing a contract for operational management services and asset management services;

4. Other matters necessary for guaranteeing the right of pension holders to receive benefits and determined and announced by the Minister of Employment and Labor.

**Article 17 (Limit on Contributions to Individual Retirement Pension Plans)**

"The limit prescribed by Presidential Decree" in the proviso to Article 24 (3) of the Act means 18 million won a year excluding lump-sum benefits, etc., paid by previous businesses under a retirement benefit scheme (the sum of all contributions in cases where there are several individual retirement pension plan accounts). *<Amended by Presidential Decree No. 26719, Dec. 15, 2015>*

**Article 18 (Eligibility Requirements by Type of Benefit under Individual Retirement Pension Plans and Early Withdrawal)**

(1) The eligibility requirements for recipients by type of benefit under an individual retirement pension plan under Article 24 (5) of the Act shall be as follows:

1. Annuity: This type of benefit is paid to pension holders aged 55 or older. In such cases, the duration of payment shall be five years or longer;
2. Lump sum: This type of benefit is paid to pension holders aged 55 or older who wish to receive lump-sum benefits.

(2) A pension holder falling under any subparagraph of Article 14 may make an early withdrawal of his/her reserves under an individual retirement pension plan pursuant to Article 24 (5) of the Act. *<Amended by Presidential Decree No. 26719, Dec. 15, 2015>*

**Article 19 (Special Cases for Businesses Employing Fewer than Ten Workers)**

(1) The eligibility requirements for recipients by type of benefit under an individual retirement pension plan under Article 25 of the Act shall be as specified in each subparagraph of Article 17 (1) of the Act.

(2) Fees incurred due to contributions paid by an employer pursuant to Article 25 (2) 2 of the Act shall be borne by the employer, and fees incurred due to additional contributions paid by a pension holder pursuant to subparagraph 3 of the same paragraph shall be borne by the pension holder.

(3) "Any reason prescribed by Presidential Decree" in the main sentence of Article 25 (3) of the Act means cases where a

pension holder retires from the relevant business.

**Article 20 (Registration Requirements, etc., for Retirement Pension Trustees)**

(1) "The requirements prescribed by Presidential Decree, such as financial soundness, personnel and physical requirements" in the part other than each subparagraph of Article 26 of the Act means the following requirements:

1. The person shall meet the following financial soundness requirements:
  - A. A person falling under subparagraph 1, 2, 3 or 7 of Article 26 of the Act: the capital adequacy ratio under Article 10 (1) of the Act on the Structural Improvement of the Financial Industry (hereinafter referred to as "capital adequacy ratio" in this Article) shall be not less than the standard determined and announced by the Financial Services Commission under paragraph (2) of the same Article;
  - B. A person falling under subparagraph 4 or 5 of Article 26 of the Act: the capital adequacy ratio shall be not less than the standard applicable to those falling under any of subparagraphs 1 through 3 and 7 of Article 26 of the Act, who are most similar to him/her in terms of business or financial structure, etc.;
  - C. A person falling under subparagraph 6 of Article 26 of the Act: he/she shall have legal grounds to get contributions from a fund established under an Act.
2. The person shall have the necessary personnel, such as those with expertise in operational management services or asset management services and computer specialists required to carry out services, as determined and announced by the Financial Services Commission: Provided, That if some of the operational management services have been entrusted to another person pursuant to Article 28 (2) of the Act, he/she shall be deemed to have personnel for the relevant services;
3. The person shall have computer facilities and offices necessary for carrying out operational management services or asset management services, as determined and announced by the Financial Services Commission. In such cases, the computer facilities shall have back-up facilities to maintain the continuity of services in the event of an accident, such as a power cut or a fire, and computer systems shall be built up in advance to ensure that any

institutional change, etc., do not cause damage to pension holders.

(2) Notwithstanding the proviso to paragraph (1) 2, a retirement pension trustee who intends to carry out the services specified in Article 28 (1) 2 of the Act must have a pension accounting specialist who meets all of the following requirements, as determined and announced by the Financial Services Commission:

1. The person shall be an insurance actuary registered under Article 182 (1) of the Insurance Business Act;
2. The person shall have at least one year of experience in retirement pension services, lump-sum retirement trust services or retirement insurance services;
3. The person shall have completed training on pension plan design and pension accounting determined by the Financial Services Commission.

(3) The Financial Services Commission shall determine and announce detailed standards concerning the requirements specified in paragraph (1) 2 and 3 and paragraph (2). In such cases, it shall consult with the Minister of Employment and Labor in advance.

(4) "Those prescribed by Presidential Decree" in subparagraph 7 of Article 26 of the Act means those licensed to engage in trust business under the Capital Markets and Financial Investment Services Act.

(5) The Minister of Employment and Labor shall accept registration except in cases where an application for registration under Article 26 of the Act falls under any of the following subparagraphs:

1. Where the person applying for registration does not fall under any subparagraph of Article 26 of the Act;
2. Where the requirements specified in paragraphs (1) and (2) are not met.

#### **Article 21 (Measures to Protect Pension Holders in Case of Cancellation, etc., of Registration)**

"Pension holder protection measures prescribed by Presidential Decree" in Article 27 (4) of the Act means the following measures:

1. Notifying the employer and pension holders of the fact that the registration has been cancelled or terminated, and the details of pension holder protection measures;
2. Making up for the financial losses to the employer and pension holders caused by the termination or alteration of

- the contract on operational management services or asset management services;
3. Providing materials, etc., necessary to transfer reserves to another retirement pension trustee pursuant to Article 27 (5) of the Act and to ensure continuous operation of the retirement pension plan for the relevant business and pension holders;
  4. Other measures necessary to prevent unreasonable damage that might be done to employers and pension holders and determined by the Minister of Employment and Labor.

**Article 22 (Scope of Operational Management Services)**

(1) "Other services prescribed by Presidential Decree" in Article 28 (1) 5 of the Act means the following services:

1. Establishing and operating an individual retirement pension plan under Article 24 of the Act;
2. Providing education entrusted by an employer pursuant to Article 32 (2) of the Act;
3. The following services in cases where a retirement pension trustee is a secretariat:
  - A. Checking whether the ability to pay benefits is secured and giving notification of the findings under Article 16 of the Act;
  - B. Calculating contributions under Article 4 (1) 1;
  - C. Conveying an employer's instructions about the selection of a retirement pension trustee that pays benefits if a reason for such payment, such as retirement, occurs to the retirement pension trustee;
  - D. Other services necessary for the stable and coherent operation of the plan, such as signing up new pension holders and giving notification of the amount of reserves and current state of reserve management, in cases where a contract for operational management services under a defined benefit retirement pension plan is made with multiple retirement pension trustees.

(2) A retirement pension trustee that is not a secretariat shall cooperate with the secretariat, such as by providing it with materials necessary to carry out the services specified in paragraph (1) 3.

**Article 23 (Partial Entrustment, etc., of Operational Management Services)**

- (1) "Some of the services prescribed by Presidential Decree"

in Article 28 (2) of the Act means the services specified in Article 28 (1) 2 through 4 of the Act and Article 22 (1) 2.

(2) "The requirements prescribed by Presidential Decree, such as personnel and physical requirements" in Article 28 (2) of the Act means the detailed standards determined and announced by the Financial Services Commission pursuant to Article 20 (3).

**Article 24 (Types of Contracts to Provide Asset Management Services)**

"Insurance contract or trust contract prescribed by Presidential Decree" in Article 29 (2) of the Act means an insurance contract to operate a special account under Article 108 of the Insurance Business Act or a specified money trust contract under subparagraph 1 of Article 103 of the Enforcement Decree of the Capital Markets and Financial Investment Services Act, which meets all of the following requirements:

1. The amount of reserves shall exceed 150/100 of the standard liability reserves, and the retirement pension trustee shall return the surplus to the employer if the employer demands such return, pursuant to Article 16 (4) of the Act;
2. Benefits shall be paid in the event of a pension holder's retirement;
3. A pension holder shall be allowed to directly claim benefits against the retirement pension trustee: Provided, That a pension holder whose consecutive service period is less than a year shall not be allowed to claim benefits, and the reserves shall revert to the employer;
4. Upon termination of the contract, the reserves shall be paid to the pension holders: Provided, That reserves for pension holders whose consecutive service period is less than a year shall revert to the employer.

**Article 25 (Management Methods Guaranteeing Principal and Interest on Reserves Under Defined Contribution Retirement Pension Plans and Individual Retirement Pension Plans)**

(1) "At least one management method prescribed by Presidential Decree, which guarantees principal and interest" in Article 30 (2) 4 of the Act means the following:

1. Management methods offered by a financial institution not falling short of the standards determined and announced by the Financial Services Commission with regard to credit rating, etc.:
  - A. Deposits and savings deposits handled by a bank under

- Article 2 (1) 2 of the Banking Act;
- B. Insurance contracts handled by an insurance company under subparagraph 6 of Article 2 of the Insurance Business Act and guaranteeing the payment of principal and interest, such as by guaranteeing a minimum interest rate on reserves;
  - C. Contracts for which a financial investment business under Article 8 of the Capital Markets and Financial Investment Services Act guarantees the payment of principal and interest and purchased under a repurchase agreement under subparagraph 3 B of Article 85 of the Enforcement Decree of the same Act.
- 2. Deposits handled by a postal service office under the Postal Savings and Insurance Act;
  - 3. Currency stabilization bonds of the Bank of Korea under Article 69 (1) of the Bank of Korea Act, state bonds and bonds for which the government guarantees the redemption of principal and interest;
  - 4. Other management methods guaranteeing the redemption of principal and interest and determined and announced by the Financial Services Commission.
- (2) If the Financial Services Commission intends to determine or change the standards referred to in paragraph (1) 1 and management methods specified in subparagraph 4, it shall consult with the Minister of Employment and Labor.

**Article 26 (Management Methods and Standards to Ensure Stable Management of Reserves)**

(1) "Management methods and standards prescribed by Presidential Decree, such as investment diversification" in Article 30 (2) 5 of the Act means the following management methods and standards: <Amended by Presidential Decree No. 26152, Mar. 23, 2015>

- 1. Management methods: management methods falling under any of the following items:
  - A. Deposits and savings deposits handled by a bank under Article 2 (1) 2 of the Banking Act;
  - B. Among insurance contracts handled by an insurance company under subparagraph 6 of Article 2 of the Insurance Business Act, those which allow a return of reserves and are announced by the Financial Services Commission;
  - C. Securities under Article 4 of the Capital Markets and Financial Investment Services Act, which are announced



by the Financial Services Commission. In such cases, the securities (excluding collective investment securities under the Capital Markets and Financial Investment Services Act) shall not be those issued by the employer or any interested person determined and announced by the Financial Services Commission;

- D. Deposits handled by a postal service office under the Postal Savings and Insurance Act;
  - E. Other management methods necessary for the stable mid- and long-term management of reserves and determined and announced by the Financial Services Commission.
2. Standards: the following standards shall be followed:
- A. Among the management methods under each item of subparagraph 1, those which guarantee principal and those which reduce investment risk, such as by diversifying investments into securities, excluding the management methods announced by the Financial Services Commission, shall be used within the aggregate investment limit prescribed by Ordinance of the Ministry of Employment and Labor. In such cases, the Financial Services Commission may determine and announce different detailed investment limits according to type of retirement pension plan within the aggregate investment limit prescribed by Ordinance of the Ministry of Employment and Labor;
  - B. In the case of defined contribution retirement pension plans and individual retirement pension plans, investment in any high-risk asset prescribed by Ordinance of the Ministry of Employment and Labor shall be made only in accordance with the method of collective investment under Article 6 (5) of the Capital Markets and Financial Investment Services Act.

(2) If the Financial Services Commission announces the matters referred to in paragraph (1) 1 B, C and E and subparagraph 2 A, it shall consult with the Minister of Employment and Labor in advance. <Amended by Presidential Decree No. 26152, Mar. 23, 2015>

#### **Article 27 (Scope of Entrustment of Solicitation Business)**

"Solicitation business prescribed by Presidential Decree" in the parts other than each subparagraph of Article 31 (1) of the Act means the following business: <Amended by Presidential Decree No. 26719, Dec. 15, 2015>

1. Business of explaining matters concerning a retirement pension plan and its operation to a person who has set up or joined a retirement pension plan (including any person who intends to set up or join a retirement pension plan);
2. Business of introducing or connecting an employer or a prospective pension holder to a retirement pension trustee;
3. Business of explaining, and providing information on, the methods of managing reserves;
4. Business of conveying questions and answers between an employer or a pension holder (including any prospective pension holder) and a retirement pension trustee, etc.;
5. Other matters necessary to solicit persons into setting up or joining a retirement pension plan and determined by the Minister of Employment and Labor.

**Article 28 (Requirements for Retirement Pension Plan Solicitors)**

(1) "The requirements prescribed by Presidential Decree" in Article 31 (1) 2 of the Act means the following requirements:

1. A retirement pension plan solicitor shall be a person who is neither an executive nor an employee of a retirement pension trustee and is entrusted with solicitation business under a written contract made with a retirement pension trustee;
2. A retirement pension plan solicitor shall be a person who falls under any of the following items and shall have completed the training determined by the Minister of Employment and Labor. In such cases, detailed matters concerning the training course and completion thereof shall be as specified in Table 1:
  - A. A person who is an insurance solicitor or an individual insurance agency registered with the Financial Services Commission pursuant to Articles 84 and 87 of the Insurance Business Act and has at least one year of experience in the relevant field;
  - B. A person who is an investment solicitor registered with the Korea Financial Investment Association pursuant to Article 51 of the Capital Markets and Financial Investment Services Act and has at least one year of experience in the relevant field;
  - C. Any other person deemed by the Minister of Employment and Labor to have expertise in retirement pension plans.

(2) The training under paragraph (1) 2 shall be entrusted to

an institution that has the manpower, facilities and equipment determined by the Minister of Employment and Labor, and necessary matters concerning the completion, etc., of training courses shall be determined by the Minister of Employment and Labor.

(3) A retirement pension trustee shall have a retirement pension plan solicitor (hereinafter referred to as "retirement pension plan solicitor") registered pursuant to Article 31 (2) of the Act receive the refresher training specified in Table 2 within six months after the beginning of every two years reckoned from the date of registration.

**Article 29 (Entrustment of Registration of Solicitors)**

(1) Pursuant to the latter part of Article 31 (2) of the Act, the Minister of Employment and Labor may select an institution from among those that have the manpower, facilities and equipment determined by the Minister of Employment and Labor and are designated by the Financial Services Commission according to the procedures determined by the Minister of Employment and Labor, and entrust it with registration of retirement pension plan solicitors.

(2) The period during which registration of solicitors may be entrusted under paragraph (1) may be determined by the Minister of Employment and Labor, but shall not exceed three years.

**Article 30 (Matters to be Observed by Retirement Pension Plan Solicitors)**

(1) A retirement pension plan solicitor shall not engage in any of the following acts pursuant to Article 31 (7) 2 of the Act:

1. Performing solicitation business using a name other than "retirement pension plan solicitor" or in the name of any other retirement pension plan solicitor;
2. Performing solicitation business based on false information, providing information different from facts or failing to provide important information;
3. Performing business beyond the scope of entrusted solicitation business under Article 27;
4. Entering into a contract for entrustment of solicitation business with two or more retirement pension trustees;
5. Using information, etc., learned while performing solicitation business for his/her own benefit or the benefit of a third person;
6. Entering into a contract on behalf of the retirement pension trustee that has entrusted the solicitation business

- or an employer, etc., who is due to join the plan;
7. Receiving money, securities and other things of property value from an employer or a pension holder who has set up or intends to set up a retirement pension plan;
  8. Offering or promising to offer special benefits under Article 33 (4) 2 of the Act to an employer or a pension holder who has set up or intends to set up a retirement pension plan, or any interested person;
  9. Releasing an employer's or a pension holder's instructions about the methods of managing reserves or giving such instructions on their behalf;
  10. Other forbidden conduct determined and announced by the Minister of Employment and Labor in order to protect employers and pension holders and maintain sound transactions.

(2) Pursuant to Article 31 (7) 2 of the Act, a retirement pension plan solicitor shall, when performing solicitation business, display in his/her office a sign or certificate indicating the fact that he/she is entrusted with solicitation business or produce it to other parties, and notify the employer, etc., of matters necessary to protect employers and pension holders and maintain sound transactions and determined and announced by the Minister of Employment and Labor, such as the name of the retirement pension trustee entrusting the solicitation business.

(3) The Financial Services Commission shall determine and announce detailed standards relating to each subparagraph of paragraph (1) and paragraph (2) after consultation with the Minister of Employment and Labor.

### **Article 31 (Duties of Employers towards Retirement Pension Plan Stability)**

"Matters prescribed by Presidential Decree" in Article 32 (1) of the Act means the following matters: <Amended by Presidential Decree No. 26719, Dec. 15, 2015>

1. An employer who has set up or operates the retirement pay system or a defined benefit retirement pension plan shall notify the pension holders that the amount of retirement benefits to be received may be reduced, and consult with the workers' representative under Article 4 (3) of the Act (hereinafter referred to as "workers' representative") about necessary measures, such as the introduction of a defined contribution retirement pension plan and the establishment of separate standards for calculation of benefits, if the amount of benefits to be

- paid to workers may be affected by the implementation of the wage peak system, pay cuts, a reduction in contractual working hours, etc.;
2. An employer shall select a retirement pension trustee, comprehensively considering its capabilities and expertise in the overall aspects of a retirement pension plan, including carrying out operational management services and asset management services and providing related services. In such cases, the employer of a business ordinarily employing 300 workers or more shall, when he/she reports retirement pension rules under Articles 13 and 19 of the Act or selects or changes his/her retirement pension trustee, submit a statement of reasons for such selection and change to the Minister of Employment and Labor;
  3. An employer shall provide the retirement pension trustee with materials, such as collective agreements, employment rules, labor contracts and payroll records, which are necessary to calculate contributions, check whether the employer's ability to pay benefits is secured under Article 16 of the Act, and perform other duties;
  4. If an employer entrusts the retirement pension trustee to provide education to the pension holders pursuant to the latter part of Article 32 (2) of the Act, the employer shall cooperate, such as by ensuring that collective education can be provided.

**Article 32 (Education for Retirement Pension Holders)**

(1) "Matters prescribed by Presidential Decree, such as the operating status of the retirement pension plan of the business concerned" in the former part of Article 32 (2) of the Act means the following matters:

1. The following general matters concerning retirement pension plans:
  - A. Matters concerning types of benefits, the characteristics of each type of retirement pension plan, such as eligibility requirements and benefit amounts, and differences therein;
  - B. Matters concerning the operation of the retirement pension plan of the business concerned, such as secured loans, early withdrawal and interest on delayed payment of contributions;
  - C. Matters concerning wages, etc., on the basis of which benefits or contributions are calculated;
  - D. Matters concerning the procedures for paying benefits

- in the event of retirement and the transfer of reserves to an individual retirement pension plan;
- E. Matters concerning taxation, such as tax on pension income and tax on retirement income;
  - F. Methods of handling affairs in the case of suspension or abolition of the retirement pension plan of the business concerned;
  - G. Matters concerning the general principles of asset and liability management taking account of each pension holder's earnings, assets and debts, age, years of consecutive service, etc., and the importance of planning for old age.
2. The following matters in the case of setting up a defined benefit retirement pension plan:
    - A. The current state of contributions paid over the past three years;
    - B. Standard benefit amounts by type of benefit;
    - C. The ratio of reserves to the minimum reserves as of the end of the preceding business year;
    - D. In cases where a financial stabilization plan is drawn up, the plan and its implementation status;
    - E. Other matters concerning the current state of reserve management, management targets, etc.
  3. The following matters in the case of setting up a defined contribution retirement pension plan:
    - A. The level of contributions for the employer, the date of contribution and the current state of contributions paid;
    - B. Matters concerning the standard rules and standard contracts for defined contribution retirement pension plans involving two or more employers under Article 23 of the Act;
    - C. Matters concerning the investment principles implemented to ensure the stable management of reserves, such as investment diversification;
    - D. Matters concerning the return structures by reserve management method, such as collective investment securities, basic selling price, investment risk, fees, etc., proposed by the retirement pension trustee.
- (2) If an employer provides education about the matters referred to in paragraph (1) 3 C and D, he/she shall do so in cooperation with the retirement pension trustee.

**Article 33 (Conduct Prohibited for Employers)**

"Other acts prescribed by Presidential Decree" in Article 32

- (3) 2 of the Act means the following conduct:
1. Deliberately omitting or falsifying materials needed to carry out operational management services or asset management services and providing them to the retirement pension trustee;
  2. Requesting the retirement pension trustee to provide services of economic value other than the supplementary services prescribed in the contractual terms and conditions or receiving such services;
  3. Requesting the retirement pension trustee to purchase goods, etc., in return for entering into a contract with the retirement pension trustee;
  4. Requesting the retirement pension trustee to propose fixed returns on a management method which does not provide fixed returns or receiving such a proposal; and
  5. Failing to draw up a financial stabilization plan or give notification of it.

**Article 34 (Conduct Prohibited for Retirement Pension Trustees)**

- (1) "Other acts prescribed by Presidential Decree" in Article 33 (3) 4 of the Act means the following conduct:
1. Using information learned in relation to carrying out services, such as the employer's or pension holder's management instructions, etc., for his/her own benefit or the benefit of a third person;
  2. Demanding the signing of a retirement pension contract on conditions that the employer, the pension holder or any interested person is given benefits in terms of financial transactions, such as extending existing loans or providing new loans;
  3. Forcing the employer or pension holder to choose a particular management method;
  4. Providing the employer or pension holder with judgments which are conclusive and have no rational grounds, on a rise or fall in the value of a particular management method;
  5. Proposing remarkably favorable terms beyond commonly used ones with regard to the methods of managing reserves, etc.;
  6. Applying different interest rates, etc., on management methods, for which the retirement pension trustee guarantees the payment of principal and interest, depending on each employer or pension holder, without any reasonable ground;
  7. Proposing fixed returns to the employer or pension

holder on a management method which does not provide fixed returns.

- (2) Specific standards under each subparagraph of paragraph (1) shall be determined and announced by the Financial Services Commission after consultation with the Minister of Employment and Labor.

**Article 35 (Specific Details of Special Benefits)**

(1) "Special benefits prescribed by Presidential Decree" in Article 33 (4) 2 of the Act means the following benefits:

1. Offering money or goods to induce the signing or continuation of a contract;
2. Discounting fees not based on the contractual terms and conditions;
3. Paying all or part of the costs that shall be borne by the pension holder or employer;
4. Paying interest on loans made by the relevant retirement pension trustee to the pension holder or employer on his/her behalf;
5. Providing supplementary services of economic value which are not based on the contractual terms and conditions;
6. Other economic benefits equivalent to the benefits specified in subparagraphs 1 through 5 and determined and announced by the Financial Services Commission.

(2) Specific standards for the benefits specified in each subparagraph of paragraph (1) shall be determined and announced by the Financial Services Commission after consultation with the Minister of Employment and Labor.

**Article 36 (Education for Individual Retirement Pension Holders)**

(1) "Matters prescribed by Presidential Decree, such as the operating status of the retirement pension plan for the business concerned" in Article 33 (5) of the Act means the following matters:

1. In the case of individual retirement pension plans under Article 24 (2) of the Act: matters specified in Articles 17 and 18, Article 32 (1) 1 E and G and Article 32 (1) 3 C and D of this Decree;
2. In the case of individual retirement pension plans under Article 25 of the Act: matters specified in Article 32 (1) 1 and 3 of this Decree.

(2) Education methods under paragraph (1) shall be prescribed by Ordinance of the Ministry of Employment and Labor.



**Article 37 (Supervision of Retirement Pension Trustees by the Financial Services Commission)**

(1) "Services prescribed by Presidential Decree" in the parts other than each subparagraph of Article 36 (3) of the Act means operational management services and asset management services.

(2) The Financial Services Commission may determine and announce detailed standards necessary for supervision of the services specified in paragraph (1). In such cases, it shall consult with the Minister of Employment and Labor in advance.

**Article 38 (Measures to be Taken by Employers in Case of Abolition of Retirement Pension Plan)**

"Measures prescribed by Presidential Decree" in Article 38 (2) of the Act means the following measures:

1. The employer shall submit a report of abolition containing the following matters to the Minister of Employment and Labor within one month after the date of abolition of the retirement pension plan:
  - A. Consent from the workers' representative to the abolition of the retirement pension plan;
  - B. Reasons for abolition of the retirement pension plan and the date of abolition;
  - C. Reserves and unpaid contributions of the relevant business calculated based on the date of abolition of the retirement pension plan (referring to a reserve shortfall compared to the amount under Article 16 (1) 2 of the Act in the case of defined benefit retirement pension plans, and an amount including interest on delayed payment of contributions in the case of defined contribution retirement pension plans);
  - D. Measures to resolve unpaid contributions, such as the expected date of payment thereof (limited to defined contribution retirement pension plans).
2. The employer shall notify the pension holders of the following matters:
  - A. Matters specified in subparagraph 1 C;
  - B. Benefit statements and payment procedures;
  - C. A period subject to the interim settlement under Article 40;
  - D. Measures to resolve unpaid contributions, such as the expected date of payment thereof (limited to defined contribution retirement pension plans).
3. The employer shall pay unpaid contributions within 14

days after the date of abolition of the retirement pension plan and have the retirement pension trustee pay out benefits.

**Article 39 (Basic Services to be Maintained in Case of Suspension of Retirement Pension Plan)**

"The basic services prescribed by Presidential Decree" in Article 38 (3) of the Act means the following services:

1. The following services in the case of employers:
  - A. Publicly notifying the pension holders of reasons for the suspension, the date of suspension, a schedule for resumption, measures to handle the suspension period, such as plans to pay unpaid contributions if there are unpaid contributions, and so on;
  - B. Providing education for pension holders under the former part of Article 32 (2) of the Act;
  - C. Measures necessary to carry out the services prescribed by Acts and subordinate statutes, etc., in regard to claims for payment of benefits, management of reserves, etc., even in the event of suspension of a retirement pension plan;
  - D. Other services determined by the Minister of Employment and Labor in order to maintain the continuity of a retirement pension plan and protect pension holders.
2. The following services in the case of retirement pension trustees:
  - A. Paying benefits upon retirement, etc., of pension holders;
  - B. Providing education for pension holders entrusted pursuant to the latter part of Article 32 (2) of the Act;
  - C. Services prescribed by Acts and subordinate statutes and contracts on operational management services and asset management services in regard to payment of benefits, management of reserves, notification of current state of reserve management, etc.;
  - D. Other services determined by the Minister of Employment and Labor in order to maintain the continuity of a retirement pension plan and protect pension holders.

**Article 40 (Period Subject to Interim Settlement in Case of Abolition of Retirement Pension Plan)**

If benefits are deemed to be paid in an interim settlement pursuant to Article 38 (4) and (5) of the Act, the amount of the

interim payment (limited to defined benefit retirement pension plans) and the period subject to interim settlement shall be as follows:

1. In the case of defined benefit retirement pension plans: the amount of interim payment shall be calculated by proportionally dividing the amount of reserves accumulated by each business among the pension holders in consideration of their consecutive service periods, average wages and the benefit levels under subparagraph 4 of Article 13 of the Act, and the period subject to the interim settlement shall be calculated based on the amount of interim payment;
2. In the case of defined contribution retirement pension plans and individual retirement pension plans under Article 25 (1) of the Act: the period subject to interim settlement shall be from the day each pension holder joined the retirement pension plan until the last day of a period corresponding to the contributions paid by the employer.

**Article 41 (Entrustment and Delegation of Authority)**

(1) The Minister of Employment and Labor shall entrust the following authority to the Financial Services Commission pursuant to Article 42 (1) of the Act:

1. Registration of retirement pension trustees under Article 26 of the Act;
2. Cancellation of registration of retirement pension trustees and issuance of orders for transfer of services under Article 27 of the Act;
3. Cancellation of registration of retirement pension plan solicitors and suspension of business under Article 31 (6) of the Act;
4. Issuance of corrective orders and orders for transfer of services under Article 36 (1) and (2) of the Act (including requests for reporting and submission of documents under Article 40 of the Act to the extent necessary for the exercise of the relevant authority);
5. Hearings under Article 41 of the Act;
6. Imposition and collection of fines for negligence under Article 48 of the Act (limited to imposition and collection of fines for negligence against retirement pension trustees).

(2) The Financial Services Commission may determine and announce detailed standards necessary for performing the duties

specified in paragraph (1) 1 through 4. In such cases, it shall consult with the Minister of Employment and Labor in advance.

(3) If the Financial Services Commission cancels registration of a retirement pension plan solicitor and suspends his/her business pursuant to paragraph (1) 3, it shall notify the Minister of Employment and Labor of the details and grounds.

(4) The Minister of Employment and Labor shall entrust the following authority to the Governor of the Financial Supervisory Service pursuant to Article 42 (1) of the Act:

1. Approval of standard contracts under subparagraph 2 of Article 23 of the Act;
2. Checking for violations of the matters to be observed by retirement pension plan solicitors under Article 31 (7) of the Act.

(5) The Governor of the Financial Supervisory Service shall, if a retirement pension plan solicitor is found to have violated the matters to be observed as a result of a check under subparagraph (4) 2, notify the Financial Services Commission of the details thereof.

(6) The Minister of Employment and Labor may, if deemed necessary in order to protect employers and pension holders and maintain sound transactions, request the Governor of the Financial Supervisory Service to perform a check under paragraph (4) 2, and after such check, the Governor of the Financial Supervisory Service shall submit the findings in writing to the Minister of Employment and Labor.

(7) The Minister of Employment and Labor shall delegate the following authority to the heads of local employment and labor offices pursuant to Article 42 (1) of the Act:

1. Receipt of retirement pension rules reported under Articles 13 and 19 of the Act;
2. Issuance of corrective orders and orders for suspension of operation of a retirement pension plan under Article 35 of the Act;
3. Requests for reporting, submission of documents or physical presence under Article 40 (1) of the Act and questioning and investigation under paragraph (2) of the same Article;
4. Imposition and collection of fines for negligence under Article 48 of the Act (limited to imposition and collection of fines for negligence against employers);
5. Receipt of statements of reasons for selection or change of a retirement pension trustee under the latter part of

subparagraph 2 of Article 31;

6. Receipt of reports on abolition of a retirement pension plan under subparagraph 1 of Article 38.

(8) The Financial Services Commission shall entrust authority over the measures specified in Article 36 (3) 1 of the Act (excluding demands for dismissal of an employee) to the Governor of the Financial Supervisory Service pursuant to Article 42 (2) of the Act.

**Article 42 (Criteria for Imposition of Fines for Negligence)**

The criteria for imposition of fines for negligence under Article 48 (1) and (2) of the Act shall be as specified in Table 3.

**Article 43 (Management of Unique Identifying Information)**

The Minister of Employment and Labor (including any person to whom the authority of the Minister of Employment and Labor is entrusted or delegated pursuant to Article 41), an employer, a retirement pension trustee, a person entrusted with operational management services by a retirement pension trustee under Article 28 (2) of the Act or an institution entrusted with registration of retirement pension plan solicitors under the latter part of Article 31 (2) of the Act may manage data containing resident registration numbers under subparagraph 1 of Article 19 of the Enforcement Decree of the Personal Information Protection Act or foreigner registration numbers under subparagraph 4 of the same Article, if it is inevitable in order to perform the following duties:

1. Duties concerning the registration of a retirement pension trustee under Article 26 of the Act;
2. Duties concerning the cancellation of registration of a retirement pension trustee and transfer orders under Article 27 of the Act;
3. Duties concerning the signing of a contract for operational management services under Article 28 of the Act;
4. Duties concerning the signing of a contract for asset management services under Article 29 of the Act;
5. Duties necessary for the provision of operational management services under Article 30 of the Act;
6. Duties concerning the entrustment of solicitation business, the registration of retirement pension plan solicitors, the cancellation of registrations, the suspension of solicitation business, etc., under Article 31 of the Act;

7. Duties necessary for the provision of education entrusted by an employer under Article 32 (2) of the Act;
8. Duties concerning the submission of performance results of a retirement pension plan under Article 33 (6) of the Act;
9. Duties concerning supervision over employers under Article 35 of the Act;
10. Duties concerning supervision over retirement pension trustees under Article 36 of the Act;
11. Duties concerning requests for provision of information on financial transactions under Article 37 of the Act;
12. Duties concerning cooperation under Article 39 of the Act;
13. Duties concerning reporting and investigation under Article 40 of the Act.

**Article 44 (Review of Regulations)**

With regard to the following matters, the Minister of Employment and Labor shall review the reasonableness thereof and take measures, such as making improvements, every three years (referring to no later than the day before the same day as the reference date of every third year) starting from the following reference date: *<Amended by Presidential Decree No 27751, Dec. 30, 2016>*

1. The minimum levels of reserves for defined benefit retirement pension plans under Article 5: January 1st, 2017;
2. Deleted. *<Presidential Decree No. 27751, Dec. 30, 2016>*
3. The criteria for determining any shortfall in reserves and measures for resolution under Article 7: January 1st, 2017;
4. The requirements for retirement pension plan solicitors under Article 28: January 1st, 2017;
5. The matters to be observed by retirement pension plan solicitors under Article 30: January 1st, 2017.

*<This Article Newly Inserted by Presidential Decree No. 25840, Dec. 9, 2014>*

**Addenda**

*<Presidential Decree No. 20681, Feb. 29, 2008>*

**Article 1 (Enforcement Date)**

This Decree shall enter into force on the date of its promulgation. *<Proviso omitted>*

**Articles 2 through 4 Omitted.**

**Article 5 (Revision of Other Acts and Subordinate Statutes)**

(1) through (8) Omitted.

(9) Parts of the Enforcement Decree of the Employee Retirement Benefit Security Act shall be revised as follows:

"Minister of Finance and Economy and the Financial Supervisory Commission" in Article 2 (1) 3 shall be changed to "Minister of Strategic Planning and Finance and the Financial Services Commission".

"Financial Supervisory Commission" in the former part of Article 13 (1) 1, the former part of Article 13 (2), Article 16 (1) 1 and 3, Article 16 (2), Article 17 (1) 1 D and E, Article 17 (1) 2, Article 17 (2), title of Article 22, the former part of Article 22 (3), parts other than each subparagraph of Article 25 (1), the former part of Article 25 (2) and Article 25 (4) shall be changed to "Financial Services Commission."

(10) through (20) Omitted.

**Addenda**

*<Presidential Decree No. 22269, Jul. 12, 2010>*

**Article 1 (Enforcement Date)**

This Decree shall enter into force on the date of its promulgation. <Proviso omitted>

**Article 2 (Revision of Other Acts and Subordinate Statutes)**

(1) through (45) Omitted.

(46) Parts of the Enforcement Decree of the Employee Retirement Benefit Security Act shall be revised as follows:

"Minister of Labor" in parts other than each subparagraph of Article 2 (1), Article 2 (3), the proviso to Article 9, the latter part of Article 13 (2), Article 14 (3), Article 16 (2), Article 17 (2), the latter part of Article 22 (3), parts other than each subparagraph of Article 25 (1), the latter part of Article 25 (2), parts other than each subparagraph of Article 25 (3), Article 26 (1), the former part of Article 26 (2) and subparagraph 8 in the offence column of Table shall be changed to "Minister of Employment and Labor".

"Ministry of Labor" in Article 2 (1) 3 and Article 2 (3) shall be changed to "Ministry of Employment and Labor".

"Ordinance of the Ministry of Labor" in subparagraph 3 of Article 8, the latter part of Article 17 (1) 2 A, the latter part of Article 17 (1) 2 B and Article 26 (4) shall be changed to

"Ordinance of the Ministry of Employment and Labor".

"Local labor offices" in parts other than each subparagraph of Article 25 (3) shall be changed to "local employment and labor offices".

(47) through (136) Omitted.

### **Addenda**

*<Presidential Decree No. 22409, Sep. 29, 2010>*

#### **Article 1 (Enforcement Date)**

This Decree shall enter into force on the date of its promulgation: Provided, That the amended provision of Article 8-2 shall enter into force on December 1, 2010.

#### **Article 2 (Enforcement Date of Act for Businesses Ordinarily Employing Four or Fewer Workers)**

"A date prescribed by Presidential Decree" in the proviso to Article 1 of the Addenda to the Employee Retirement Benefit Security Act amended by Act No. 7379 means December 1, 2010.

### **Addenda**

*<Presidential Decree No. 22493, Nov. 15, 2010>*

#### **Article 1 (Enforcement Date)**

This Decree shall enter into force on November 18, 2010.

**Articles 2 and 3** Omitted

#### **Article 4 (Revision of Other Acts and Subordinate Statutes)**

(1) through (29) Omitted.

(30) Parts of the Enforcement Decree of the Employee Retirement Benefit Security Act shall be revised as follows:

"Financial institutions" in Article 17 (1) 1 A shall be changed to "banks"

(31) through (115) Omitted.

**Article 5** Omitted.

### **Addenda**

*<Presidential Decree No. 22808, Mar. 30, 2011>*

#### **Article 1 (Enforcement Date)**



This Decree shall enter into force on the date of its promulgation.

**Article 2 (Transitional Measures concerning Fines for Negligence)**

Application of the criteria for imposition of fines for negligence to offences committed before this Decree enters into force shall be governed by the previous provisions notwithstanding the amended provisions of the Table.

**Addendum**

*<Presidential Decree No. 23417, Dec. 28, 2011>*

This Decree shall enter into force on the date of its promulgation.

**Addenda**

*<Presidential Decree No. 23987, Jul. 24, 2012>*

**Article 1 (Enforcement Date)**

This Decree shall enter into force on July 26, 2012.

**Article 2 (Applicability concerning Payment of Fees)**

For businesses that have a retirement pension plan at the time this Decree enters into force, the amended provisions of Articles 4 (4), 10 (2) and 19 (2) shall apply to fees incurred after July 26, 2013.

**Article 3 (Transitional Measures concerning Insurance Accounting Specialists)**

Persons registered as retirement pension trustees at the time this Decree enters into force under the previous provisions shall have a pension accounting specialist under the amended provisions of Article 20 (2) no later than July 25, 2013.

**Article 4 (Retirement Insurance, etc., Deemed as Retirement Pay System)**

(1) "Retirement insurance or a lump-sum retirement trust prescribed by Presidential Decree" in the main sentence of Article 2 (1) of Addenda to the Employee Retirement Benefit Security Act as wholly amended by Act No. 10967 refers to an insurance or a trust (hereinafter referred to as "retirement insurance, etc.") that meet all of the following requirements:

1. Retiring workers shall be allowed to directly choose and claim lump-sum or annuity benefits (excluding instances where a lump-sum retirement trust was joined: hereinafter the same

shall apply) against the financial institution (hereinafter referred to as "insurance provider, etc.") handling the retirement insurance, etc.;; Provided, That a worker whose consecutive service period is less than one year shall not be allowed to claim lump-sum or annuity benefits, and the lump-sum and annuity benefits shall revert to the employer;

2. Refunds (hereinafter referred to as "cancellation refunds") in the case of cancellation of the contract of retirement insurance, etc., shall be paid to workers who are the insured or beneficiaries (hereinafter referred to as "the insured, etc."): Provided, That cancellation refunds for workers who are the insured, etc., and have a consecutive service period of less than one year shall revert to the employer;

3. The right of workers who are the insured, etc., to receive lump-sum or annuity benefits or cancellation refunds under the retirement insurance, etc., shall not be transferred to any other person or offered as collateral;

4. The insurance provider, etc., shall make the insured, etc., aware of the contents of the contract before entering into a contract for retirement insurance, etc., and after entering into the contract, give them notification of it;

5. The insurance provider, etc., shall give notification to the insured, etc., of the status of insurance premiums or trust contributions paid and the estimated amount of lump-sum or annuity benefits every year.

(2) If workers who are the insured, etc., have received cancellation refunds pursuant to the main sentence of paragraph (1) 2, he/she shall be deemed to have received in advance an equivalent amount of retirement pay that shall be paid under Article 8 (2) of the Act.

(3) If the amount of lump-sum benefits under the retirement insurance, etc., is less than that of retirement pay under Article 8 (1) of the Act, the employer shall pay the difference to the retiring worker.

(4) If the employer and workers have canceled the retirement insurance, etc., and decided to implement a defined benefit retirement pension plan or defined contribution retirement pension plan, cancellation refunds may not be paid to workers who are the insured, etc., notwithstanding paragraph (1) 2.

#### **Article 5 (Revision of Other Acts and Subordinate Statutes)**

(1) Parts of the Enforcement Decree of the Kaesong

Industrial Zone Support Act shall be revised as follows:

"Article 30 of the Employee Retirement Benefit Security Act and Article 25 of the Enforcement Decree of the same Act" in Article 11 (4) 3 shall be changed to "Article 42 of the Employee Retirement Benefit Security Act and Article 41 of the Enforcement Decree of the same Act".

(2) Parts of the Enforcement Decree of the Agricultural Cooperatives Act shall be revised as follows:

"retirement pay for the final three years, for which the preferential payment right is recognized under Article 11 (2) of the Employee Retirement Benefit Security Act" in Article 50 (1) 2 shall be changed to "retirement benefits, etc., for the final three years, for which the preferential payment right is recognized under Article 12 (2) of the Employee Retirement Benefit Security Act".

(3) Parts of the Enforcement Decree of the Insurance Business Act shall be revised as follows:

"Article 16 (2) of the Employee Retirement Benefit Security Act" in Article 15 (1) 2 shall be changed to "Article 29 (2) of the Employee Retirement Benefit Security Act".

"Subparagraph 12 of Article 2 of the Employee Retirement Benefit Security Act" in Article 16 (2) 8 shall be changed to "subparagraph 13 of Article 2 of the Employee Retirement Benefit Security Act".

"Article 15 (2) of the Employee Retirement Benefit Security Act" in subparagraph 6 of Article 86 shall be changed to "Article 28 (2) of the Employee Retirement Benefit Security Act".

(4) Parts of the Enforcement Decree of the Forestry Cooperatives Act shall be revised as follows:

"retirement pay for the final three years, for which the preferential payment right is recognized under Article 11 (2) of the Employee Retirement Benefit Security Act" in Article 26 (1) 2 shall be changed to "retirement benefits, etc., for the final three years, for which the preferential payment right is recognized under Article 12 (2) of the Employee Retirement Benefit Security Act".

(5) Parts of the Enforcement Decree of the Mutual Savings Banks Act shall be revised as follows:

"retirement pay for the final three years, for which the preferential payment right is recognized under Article 11 (2) of the Employee Retirement Benefit Security Act" in Article 17 (1) 2 shall be changed to "retirement benefits, etc., for the final three years, for which the preferential payment right is

recognized under Article 12 (2) of the Employee Retirement Benefit Security Act".

(6) Parts of the Enforcement Decree of the Community Credit Cooperatives Act shall be revised as follows:

"Article 11 (2) of the Employee Retirement Benefit Security Act" in Article 54 (1) 2 shall be changed to "Article 12 (2) of the Employee Retirement Benefit Security Act".

(7) Parts of the Enforcement Decree of the Income Tax Act shall be revised as follows:

"Insurance contract under Article 16 (2) of the Employee Retirement Benefit Security Act and retirement insurance contract under Article 2 (1) of Addenda to the same Act" in Article 25 (2) 1 shall be changed to "insurance contract under Article 29 (2) of the Employee Retirement Benefit Security Act and retirement insurance contract under Article 2 (1) of Addenda to the Employee Retirement Benefit Security Act as amended by Act No. 7379".

"Insurance or trust under Article 16 (2) of the Employee Retirement Benefit Security Act" in the main sentence of Article 38 (1) 15 shall be changed to "insurance contract or trust contract under Article 29 (2) of the Employee Retirement Benefit Security Act".

Article 42-2 (1) 6 B shall be deleted, and "defined contribution retirement pension and individual retirement account" in item C of the same subparagraph shall be changed to "defined contribution retirement pension plan and individual retirement pension plan".

"Defined contribution retirement pension or individual retirement account" in Article 42-2 (5) shall be changed to "defined contribution retirement pension plan or individual retirement pension plan account".

"The provisions of Article 2 (1) of Addenda to the Employee Retirement Benefit Security Act" in Article 51 (3) 4-2 B shall be changed to "Article 2 (1) of Addenda to the Employee Retirement Benefit Security as amended by Act No. 7379" and "Article 16 (2) of the Employee Retirement Benefit Security Act" in item C of the same subparagraph to "Article 29 (2) of the Employee Retirement Benefit Security Act".

"Defined contribution retirement pension under Article 13 of the Employee Retirement Benefit Security Act or individual retirement account under Article 26 of the same Act" in Article 55 (3) shall be changed to "defined contribution retirement pension plan under Article 19 of the Employee Retirement

Benefit Security Act or individual retirement pension plan under Article 25 of the same Act, and "each subparagraph of Article 15 of the Enforcement Decree of the Employee Retirement Benefit Security Act" in paragraph (5) 4 of the same Article to "each subparagraph of Article 24 of the Enforcement Decree of the Employee Retirement Benefit Security Act".

**Article 6 (Relations with Other Acts and Subordinate Statutes)**

References to the previous provisions of the Enforcement Decree of the Employee Retirement Benefit Security Act in other Acts and subordinate statutes at the time this Decree enters into force shall be deemed to be references to the corresponding provisions of this Decree, if any, in lieu of the previous provisions.

**Addenda**

*<Presidential Decree No. 25022, Dec. 24, 2013; Revision of the Enforcement Decree of the Employment Insurance Act>*

**Article 1 (Enforcement Date)**

This Decree shall enter into force on January 1, 2014.

**Articles 2 through 19** Omitted.

**Article 20 (Revision of Other Acts and Subordinate Statutes)**

Parts of the Enforcement Decree of the Employee Retirement Benefit Security Act shall be revised as follows:

"Article 28 (1) 1 through 3 of the Enforcement Decree of the Employment Insurance Act" in Article 3 (1) 6 shall be changed to "Article 28 (1) 1 and 2 of the Enforcement Decree of the Employment Insurance Act".

**Addenda** *<Presidential Decree No. 25840, Dec. 9, 2014; Partial Revision of the Enforcement Decree of the Building Act, etc., for Regulatory Reforms, Such As Setting Deadline for Review of Regulations>*

**Article 1 (Enforcement Date)**

This Decree shall enter into force on January 1, 2015.

**Articles 2 through 16** Omitted.

**Addendum** *<Presidential Decree No. 26152, Mar. 23, 2015>*

This Decree shall enter into force on January 1, 2015.

### **Addenda**

*<Presidential Decree No. 26719, Dec. 15, 2015>*

#### **Article 1 (Enforcement Date)**

This Decree shall enter into force on the date of its promulgation.

#### **Article 2 (Transitional Measures concerning Limit on Contributions to Individual Retirement Pension Plan)**

The limit on the contributions a person who has set up an individual retirement pension plan before this Decree enters into force can pay in 2015 shall be governed by the previous provisions notwithstanding the amended provisions of Article 17.

### **Addenda**

*<Presidential Decree No. 27751, Dec. 30, 2016; Partial Revision of the Enforcement Decree of the Fair Transactions in Franchise Business Act, Such as for Setting Deadline for Review of Regulations>*

#### **Article 1 (Enforcement Date)**

This Decree shall enter into force on January 1, 2017.

<Proviso omitted>

**Articles 2 through 12 Omitted.**

[Table 1] <Amended on Jul. 24, 2012>

**Detailed Matters on Training Courses for Retirement  
Pension Plan Solicitors & Completion Thereof**  
(relating to Article 28 (1) 2)

Classification	Contents	
Training Subjects	<ul style="list-style-type: none"> <li>• Understanding of the retirement pension system</li> <li>• Understanding of the Employee Retirement Benefit Security Act and its subordinate statues</li> <li>• Understanding of labor laws and regulations related to the retirement pension system, and matters to be observed by solicitors</li> </ul>	
Criteria for Completion	Duration	20 hours or more
	Criteria for Completion	An average score of 70% or higher shall be earned to pass (40% or higher on each subject).

[Table 2] <Amended on Jul. 24, 2012>

**Detailed Matters on Refresher Training for Retirement  
Pension Plan Solicitors** (relating to Article 28 (3))

Classification	Details
Training Subjects	<ul style="list-style-type: none"><li>• Understanding of the retirement pension system,</li><li>• Understanding of the Employee Retirement Benefit Security Act and its subordinate statutes and matters to be observed by solicitors</li></ul>
Training Duration	10 hours or more



[Table 3] <Amended on Jul. 24, 2012>

**Criteria for Imposition of Fines for Negligence**  
(Relating to Article 42)

**1. General criteria**

The Minister of Employment and Labor may reduce the amount of a fine for negligence set forth in the specific criteria under subparagraph 2 by up to one half thereof, if any of the following items apply to the offender: Provided, however, that this shall not apply to an offender who delays payment of a fine for negligence:

- A. Where any subparagraph of Article 2-2 (1) of the Enforcement Decree of the Act on the Regulation of Violations of Public Order applies to the offender;
- B. Where the offender has a reason, such as suffering a considerable loss of property due to a natural disaster, fire, etc., or facing a serious crisis due to worsening business conditions;
- C. Where the offence is deemed to have been caused by a mistake, such as minor carelessness or error;
- D. Other cases where it is deemed necessary to reduce the amount of a fine for negligence in consideration of the severity of the offence, the motive and consequences, etc.

**2. Specific criteria**

Offence	Provision	Amount of fine for negligence
A. Where an employer fails to report defined benefit retirement	Article 48 (2) 1 of the Act	5 million won

pension rules under Article 13 of the Act or defined contribution retirement pension rules under Article 19 of the Act		
B. Where a retirement pension trustee fails to comply with the terms of a contract under Article 28 (1) and Article 29 (1) of the Act	Article 48 (2) 3 of the Act	5 million won
C. Where an employer who has set up a retirement pension plan fails to provide the pension holders with education for pension holders that shall be provided once every year, in violation of Article 32 (2) of the Act	Article 48 (1) 1 of the Act	10 million won
D. Where an employer violates the duties referred to in Article 32 (3) 2 of the Act	Article 48 (2) 2 of the Act	5 million won
E. Where a retirement pension trustee fails to provide individual retirement pension holders with education for pension holders that shall be provided once every year, in violation of Article 33 (5) of the Act	Article 48 (1) 2 of the Act	10 million won
F. Where a retirement pension trustee fails to submit the performance results of a retirement pension plan to the Minister of Employment and Labor and the Governor of the Financial Supervisory Service in violation of Article 33 (6) of the Act	Article 48 (2) 3 of the Act	5 million won